

E-FILING**United States District Court****FILED**

CALIFORNIA

NORTHERN

DISTRICT OF

2007 AUG 13 PM 2:31

UNITED STATES OF AMERICA

V.

Alejandro HORTA-Guzman

RICHARD W. WIEKING

CLERK

U.S. DISTRICT COURT

MONTEREY, CA, S.D.

CRIMINAL COMPLAINT

(Name and Address of Defendant)

CASE NUMBER:
07 70484 HRL

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, July 11, 2007, in Monterey County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
 I further state that I am a(n) Deportation Officer and that this complaint is based on the following
 Official Title
 facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No

Signature of Complainant

Sworn to before me and subscribed in my presence,

8/13/07
Date

at

San Jose, California

City and State

Signature of Judicial Officer

 Richard Seeborg
UNITED STATES MAGISTRATE JUDGE
 Name & Title of Judicial Officer

RE: Alejandro HORTA-Guzman**A79 352 760**

I, Timothy F. Purdy, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Alejandro HORTA-Guzman, is a 30-year-old married male, citizen and native of Mexico, born on August 12, 1977, in, Mexico, substantiated by both photo and fingerprint analysis of multiple encounters of the DEFENDANT that include various AKA's and birth dates that the DEFENDANT has provided to Immigration authorities. The DEFENDANT has, after being read his Miranda Rights, refused to provide a sworn statement to Immigration Enforcement Agent (IEA) Alejandro Sierra upon being interviewed on July 11, 2007;
- (2) The DEFENDANT has been assigned Alien Registration number of A79 352 762, FBI number of 85462AC5, and California Criminal State ID Number of A24369986;
- (3) On February 19, 2003, the DEFENDANT was convicted in the Superior Court of California/County of San Joaquin, for the offense of: LEWD ACTS UPON A CHILD, a felony, in violation of California Penal Code Section 2273(A)(A) and was sentenced to five years probation. *On July 24, 2003 the DEFENDANT violated probation, resulting in a modified four years prison sentence effective January 5, 2004.
- (4) On June 18, 2003, the DEFENDANT was determined to be unlawfully present in the United States by the U.S. Immigration Court Eloy, AZ and ordered deported from the United States to Mexico;
- (5) On, May 12, 2004, the DEFENDANT was convicted in the Superior Court of California/County of San Joaquin, for the following offenses: STALKING, a felony, in violation of California Penal Code Section 646.9(A) / FIRST DEGREE RESIDENTIAL BURGLARY, a misdemeanor, in violation of California Penal Code Section 459 / ASSAULT WITH FORCE LIKELY TO CAUSE GREAT BODILY HARM, a felony, in violation of California Penal Code Section 245(A) / VEHICLE THEFT, a misdemeanor, in violation of California Vehicle Code Section 10851 (A) and sentenced to nine years in state prison. These offenses are defined as an aggravated felony under Title 8, United States Code, Section's 1101(a)(43) (F) and (G);

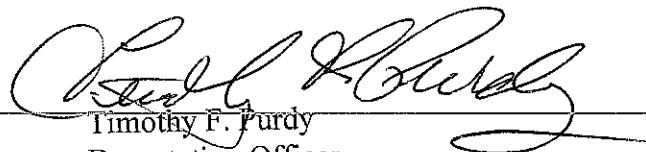
A79 352 760

RE: Alejandro HORTA-Guzman

(6) On July 11, 2007, the DEFENDANT was encountered by IEA Alejandro Sierra, at the Soledad State Prison in Monterey County, and determined to be unlawfully present in the United States after a prior deportation. IEA Sierra advised the Defendant his Miranda rights in the Spanish language. The DEFENDANT asserted his Miranda rights and refused to provide a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Secretary of the Department of Homeland Security or the United States Attorney General to reenter the United States;

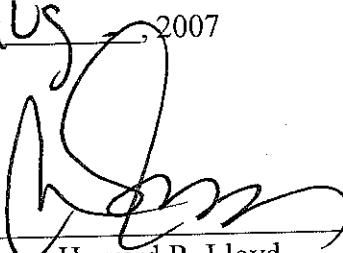
(7) The DEFENDANTS official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;

(8) Based on the above stated information, this Officer believes there is sufficient probable cause that the DEFENDANT is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 13 day of AUG, 2007


Howard R. Lloyd
UNITED STATES MAGISTRATE JUDGE